

# CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

Log #1085815

## SUMMARY OF INCIDENT

On July 4, 2017 at approximately 11:30 pm, Subject 1; his wife, Subject 2; his step-daughter, Subject 3; and four minor children were on their way to their residence. As Subject 1 turned onto his residential street and parked near XXXX S. Evans Avenue, Officer A and Officer B stopped Subject 1's vehicle for failure to use his turn signal. Subject 1 and his family allege that there was misconduct during the traffic stop, COPA reviews these allegations.<sup>1</sup>

## ALLEGATIONS

It is alleged that on July 4, 2017 at 11:30 PM, at XXXX S. Evans Ave., the accused, **Officer A**:

1. Approached Subject 1's vehicle in an aggressive manner;
2. Unnecessarily displayed his weapon;
3. Placed his weapon on Subject 1's chest;
4. Slammed Subject 1 onto the vehicle;
5. Threatened to tase and impound Subject 1's vehicle;
6. Unreasonably detained Subject 1;
7. Issued an unjustified traffic citation; and
8. Prevented his partner from identifying himself when requested by a civilian.

## APPLICABLE RULES AND LAWS

**Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department

**Rule 3:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.

**Rule 8:** Disrespect to or maltreatment of any person, while on or off duty

**Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty

**Rule 37:** Failure of a member, whether on or off duty, to correctly identify himself by giving his name, rank and star number when so requested by other members of the Department or by a private citizen

**Rule 38:** Unlawful or unnecessary use or display of a weapon

**G03-02-02:** Force Options

## The Fourth Amendment of the United States Constitution

## INVESTIGATION

### Statements

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<sup>1</sup> On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Thus, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

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IPRA conducted **Subject 1's audio statement** on July 7, 2017. Subject 1 stated he turned onto E. XXXX Street and South Evans Avenue when he saw a police vehicle behind him. Subject 1 stated that once he parked his vehicle, he noticed the police emergency lights turn on. Subject 1 stated he believed the police were trying to stop another individual so he moved to another parking spot. Subject 1 said that Officer A approached Subject 1's vehicle with his firearm unholstered. As soon as Subject 1 put his feet on the ground, Subject 1 stated that Officer A immediately put his firearm on the left side of Subject 1's chest. Subject 1 heard Officer A state, "give me your hands." Subject 1 stated Officer A "snatched" Subject 1's left hand while Subject 1 kept his right hand on the vehicle. At the same moment, Subject 1 stated that Officer A threatened to tase Subject 1 and impound Subject 1's vehicle if he did not "make this easy" and was uncooperative.

Subject 1 stated that Officer A handcuffed Subject 1 and walked Subject 1 to another assisting officer's vehicle. Subject 1 stated that he and Subject 2 questioned Officer A as to why Subject 1 was stopped. Subject 1 said that Officer A did not answer their questions. Subject 1 indicated that Officer B stayed in the police vehicle.

Subject 1 discussed that Subject 2 informed him that Subject 2 asked Officer A for his partner's name, however, Officer A refused. Subject 2 proceeded to ask Officer B his name. But, Officer A "got in middle of" Subject 2 and Officer B. Subject 1 said that Officer A stated that Subject 2 could not talk to Officer B. Subject 1 stated that Officer A issued Subject 1 a traffic citation for not using a turning signal. Subject 1 said he was sure he used his turn signal. Subject 1 stated that his neighbors recorded the incident. (Atts. 6, 8)

In **Subject 2's ("Subject 2") audio statement** to IPRA conducted on July 25, 2017, Subject 2 stated as Subject 1 was about to park their vehicle, the police vehicle flashed their lights. Subject 2 stated that when the police flashed their lights, Subject 1 went to park on the opposite side of the street. Subject 2 stated that Officer A approached Subject 1's vehicle with his firearm in his right hand. Subject 2 stated that Officer A stated, "get out of the car" as he approached the vehicle. In response, Subject 2 said Subject 1 put his hands up and asked, "what did I do?" Subject 2 indicated that Officer A placed the firearm on the left side of Subject 1's chest and "poked" Subject 1's chest with the firearm. Subject 2 said that these actions occurred within a few seconds. Subject 2 described Officer A as angry. Subject 2 mentioned to Officer A that children were inside the vehicle. Subsequently, Subject 2 stated that Officer A holstered his firearm. Subject 2 related that Officer A opened Subject 1's door, grabbed Subject 1's left arm, and slammed Subject 1 onto the front side of Subject 1's vehicle. Subject 2 heard Subject 1 repeatedly ask, "what did I do?" Subject 2 stated that Officer A did not inform the Subject 1s why Officer A pulled them over. Subject 2 stated that Officer A put Subject 1 in an assisting police officer's vehicle for about thirty to forty minutes.

Subject 2 stated that Officer A would not answer any questions and would not inform Subject 2 why he pulled Subject 1 over. Subject 2 stated that she asked Officer A for his partner's, Officer B, name. Officer A responded that he could not give it to Subject 2 and that only Officer B could give it to her. Subject 2 stated she approached Officer B, but Officer A also approached Subject 2 and Officer B. Subject 2 stated that Officer A told her to step back and that she could not talk to Officer B. (Att. 17)

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In **Subject 3's audio statement** to IPRA conducted on August 15, 2017, Subject 3 stated she was sitting directly behind the driver's seat. Subject 3 stated as Subject 1 was stepping out of the vehicle, Officer A approached Subject 1 with his firearm drawn. Subject 3 stated Officer A began yelling before Subject 1 could exit his vehicle. Subject 3 said Officer A pointed his firearm towards Subject 1's chest. Subject 3 specified that if Officer A took an additional step towards Subject 1, Officer A's firearm would have touched Subject 1's chest. Subject 3 stated that when Subject 1 was getting out of his vehicle, Officer A pushed Subject 1 back into the door. Subject 3 said that Officer A still had his firearm displayed. Subject 3 described Officer A as "angry" and "hostile" because Officer A exited his vehicle yelling. Subject 3 stated that Officer A did not calm down or explain why Officer A pulled over Subject 1. Subject 3 indicated that Officer A yelled over individuals and would not allow others to "get a word in." Subject 3 stated she did not see Officer A handcuff Subject 1.

Subject 3 stated that Subject 2 told Subject 3 to take the children inside, which Subject 3 did. While inside, Subject 3 said she did not witness what was going on outside. Subject 3 stated when she came back outside, she was unable to see what the officers were doing. Subject 3 said she saw that Subject 1 was in a police vehicle. Subject 3 stated she saw Subject 2 talk to Officer A and heard Subject 2 question him about Subject 1 and officer names. (Att. 25)

COPA conducted **Officer C's audio statement** on November 7, 2017. Officer C stated he and Officer D were dispatched to the incident location to check on the units already present. When he arrived, Officer C said that Officers 1 and 2 were in front of their police vehicle. Once he arrived, he secured the scene because there were many civilians outside. Officer C stated that he saw the taller officer, Officer A, place Subject 1 into Officer C's vehicle. Officer C said he did not see any officer or civilian with a weapon, and that he does not recall whether Officers 1 or 2 had their hands on their weapons. Officer C indicated that Subject 1 became belligerent over time and used profanity. Officer C described the officers as "clearly frustrated." Officer C stated that Officers 1 and 2 told Officer C that Subject 1 was "giving them problems" and the officers were trying to get Subject 1 under control. Officer C stated he saw Subject 2 approach the officers and talk to them, but he did not hear the conversation. Officer C stated he saw physical contact between Officers 1 or 2 and Subject 1 only when Officer A placed Subject 1 inside the vehicle to which Subject 1 did not resist. Officer C stated that Subject 1 told him that "this is bullshit" but did not go into specifics about the traffic stop. Officer C indicated that he went to Officers 1 and 2's vehicle two to five times. Officer C recalls they were writing a citation. Officer C stated he does not recall specifics of the incident. (Att. 36)

In witness **Officer D's audio statement** to IPRA conducted on August 22, 2017, Officer D stated she arrived on the scene because she saw emergency lights, and as a field training officer she wanted help Probationary Police Officer C #XXXXXX get more experience with civilian interactions. Officer D stated when she arrived on scene she saw an officer and civilian standing outside of the civilian's vehicle. Officer D said she saw two (2) civilians, Subject 1 and Subject 2, who were pulled over for a traffic stop; a male civilian who may have been recording; and other civilians. Officer D stated one officer was on the street and one officer was inside his vehicle.<sup>2</sup>

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<sup>2</sup> Based on the evidence, Officer A was the officer on the street and Officer B was the officer inside his vehicle.

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Officer D stated that Officer A had Subject 1 “up on the [his] car.” Officer D related that Officer A did not specifically inform Subject 1 why the officers stopped Subject 1. Officer D said she witnessed Officer A’s hand placed on Subject 1’s chest. Officer D related that Officer A and Subject 1 were talking back and forth in an unfriendly manner. Officer D heard Subject 1 question Officer A as to why he was stopped. Officer D conferred that when Officer A “grabbed” Subject 1’s chest, Officer A may have slammed Subject 1 against the vehicle. But, Officer D stated that she is not sure if Officer A slammed Subject 1 because she did not witness it. Officer D stated she is positive that Officer A had Subject 1 “up against the car.” Officer D stated she did not hear Officer A threaten Subject 1.

Officer D stated that Officer A handcuffed Subject 1 and placed Subject 1 into her vehicle for about ten to fifteen minutes. Officer D said that Officer A went back to his vehicle to complete documentation. Officer D described Subject 1 as hostile. Officer D stated that Subject 1 was yelling at Officer A and he demanded to know why he was stopped, but Officer A never told him. Officer D described Officer A as having the same demeanor towards Subject 1. Officer D stated that Officer A was yelling at Subject 1. Officer D said she did not see any weapons on Officers 1 and 2 or civilians. Officer D stated that weapons might have been displayed prior to her arrival.

Officer D relayed that Officer B exited his vehicle towards the end of the incident when the officers released Subject 1. Officer D described Officer B as calm. Officer D stated she saw Subject 2 talk to Officer B while Officer B sat in his vehicle, but she did not hear their conversation. Officer D stated that the Subject 1s asked for Officer A’s and may have asked for Officer B’s name and badge number, and they were not provided this information while Officer D was on the scene. Officer D stated that she later learned that Officers 1 and 2 stopped Subject 1 for a traffic violation in which Officer A issued Subject 1 a traffic citation. Officer D said she stayed on scene until Officer A issued the traffic citation. Officer D indicated there was plenty of noise and yelling during the incident. (Att. 26)

IPRA conducted witness **Officer B’s audio statement** on September 13, 2017. While working with Officer A, Officer B stated that after Subject 1 made a left turn on Champlain Avenue, both officers noticed that Subject 1 ran a stop sign. Officer B stated they activated their emergency lights and Officer A drove behind Subject 1, and Subject 1 put his car in park. Officer B stated that the officers were about to exit the vehicle, but Subject 1 put his vehicle back in drive and drove to the opposite side of the street to park. Officer B stated that Officer A pulled behind Subject 1 and then Subject 1 put his vehicle in reverse and proceeded to back up and Officer A reversed as well. Officer B stated that Subject 1 exited his vehicle waving his hands in the air. Officer B stated that Subject 1 asked, “why did you stop me?” Officer B specified that when he exited his vehicle he noticed Subject 1 had a small cell phone in his hand.

Officer B stated he noticed Subject 2 on the passenger side. Officer B stated that he told Subject 2 to stay on the sidewalk while the officers conducted the investigation. Officer B stated that Officer A approached Subject 1 in a calm manner, but was on the defense. Officer B stated that once Officer A exited, he told Subject 1 “to stay right there and let me see your hands” to which Subject 1 responded, “why are you guys stopping me, this is bullshit, I didn’t do anything wrong, I’m black you’re black, and why are you pulling me over.” Officer B stated that no weapons

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were drawn, but, Officer A had his hand on his firearm. Officer B heard Officer A tell Subject 1 to put his hands behind his back and Subject 1 put his left hand behind his back. Officer B said he heard Officer A say if you disobey a direct order or do not follow verbal instructions, then Officer A may put Subject 1 under arrest. Officer B stated that Officer A told him not to tase Subject 1. Officer B stated he did not touch his taser, but he had his hand on his firearm when he exited his vehicle. Officer B specified that he and Officer A put their hands on their firearm when approaching any and all traffic stops.

Officer B said the officers asked Subject 1 why he was tailgating them. Officer B stated that Subject 1 responded, “that’s bullshit, I was not tailgating you guys, why are you stopping me, this is bullshit,” while continuing to wave his hands in the air. Officer B stated that Officer A grabbed Subject 1’s left wrist and handcuffed it. Officer B stated that Officer A asked for his other hand but Subject 1 did not put his hand behind his back. Officer B stated that Officer A asked Subject 1 again, but Subject 1 refused and proceeded to pull away from Officer A. Officer B indicated that Subject 1 was turning his body to the right so Officer A would be unable to control Subject 1’s right hand. Officer B stated that Officer A neither unholstered his firearm nor drew it. Officer B stated he saw that Subject 1 was pulling away from Officer A, thus, Officer B proceeded to grab Subject 1’s right hand. Officer B described Subject 1 as “mad.” Officer B stated that Officer A did not touch any part of Subject 1 other than Subject 1’s wrist and forearm.

Officer B stated that once Subject 1 was in custody, he ran Subject 1’s driver’s license number and Officer A switched to be the guard officer standing in front of their vehicle. Officer B stated that Officer A wrote the traffic citation. Officer B stated that Subject 2 asked for his information and he told her that he would give his star number and additional information once the investigation ended. Officer B stated that he told Subject 2 his last name. Officer B indicated that a neighbor interrupted their conversation, and Officer A told Subject 2 and the neighbor “to back off and once done with investigation, we will give our information.” Officer B stated he did not hear Subject 2 ask Officer A for Officer B’s information. Officer B indicated that Subject 1 and Subject 2 asked Officer A his name which Officer A provided. Officer B stated that Officer A gave Subject 1 a moving violation citation. Officer B said that Officer A told him the judge threw out the traffic citation without hearing from Subject 1 or Officer A. Officer B stated that the traffic stop was approximately twenty minutes. (Att. 27)

IPRA conducted accused **Officer A's audio statement** on September 14, 2017. Officer A stated Subject 1 made a left turn onto XXXX Avenue from XXXX Street and Officer A followed Subject 1 with the intention to conduct a traffic stop because Subject 1 did not stop at first stop sign. Officer A stated that after Subject 1 turned on Evans Avenue, Subject 1 pulled to the left side and stopped near XXXX S. Evans Avenue, Officer A put his vehicle in park to get ready to exit, and Officer A put his left foot outside. Officer A said he saw Subject 1’s reverse lights come on so he got back inside because he thought Subject 1 would drive away. Instead, Officer A said that Subject 1 drove to the right side of the street, and he and Officer B waited to see what was going to happen. Officer A stated that it became a high-level traffic stop because his suspicions went up and Subject 1 was not acting normal. Officer A stated he believed this was a high-level traffic stop because Subject 1 refused to stop when the emergency lights were on for about seven to ten seconds. In his experience, Officer A said the person is trying to hide something in their car. Officer A stated he “did not know what was happening” and “knew it was not a normal traffic stop.”

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Officer A said he believed Subject 1 would flee, but he did not want to speculate whether Subject 1 had a weapon.

Believing it was a high-level stop, Officer A stated he exited his vehicle and told Subject 1 to "stay in your car." Officer A said he was yelling. Officer A stated that Subject 1 stepped out of his vehicle with a dark object in his hand which later turned out to be a cell phone. Officer A said he believed the object in Subject 1's hand "could have been a weapon." Officer A stated he stood next to his door for about five to six seconds and approximately twenty-five to thirty feet away from Subject 1 with a spot light on Subject 1's entire car to "blind him" from Officer A's position. Officer A stated he "drew his gun and stood in the ready position," which meant he held his firearm on the right side of his body towards the ground. Officer A stated he "holstered his gun to begin [his] approach" because he believed it was not a weapon. Officer A stated he repeated "get back in your car," but Subject 1 did not listen. Officer A stated that Subject 1 said, "why you pulling me over, this is bullshit." Officer A said Subject 1 was yelling, screaming, and could not control himself.

Officer A pulled out handcuffs because Subject 1 began complying by getting closer to his vehicle and putting his hands on the roof of his vehicle. Officer A stated he told Subject 1, "listen, it's just traffic, relax" to which Subject 1 said, "why did you stop me, this is bullshit." Officer A stated he grabbed Subject 1's left wrist and instructed Subject 1 "to put his left hand" behind his back. Officer A said once Subject 1 felt the handcuff on his left hand, Subject 1 began resisting by not bringing his right hand behind, turning, and getting tense. Officer A stated he tried to deescalate the situation by saying "if you fight me, I'm gonna arrest you and then I'm gonna have to tow your car" and he said, "you are not under arrest, this is just a traffic stop." Officer A stated Subject 1 then began to comply because he felt Subject 1's muscles loosen up. Officer A stated he heard Officer B tell Subject 1 to put his hand behind his back. Officer A said that in his experience with Officer B, when Officer B uses verbal commands, he is "getting ready to take action." Officer A said he subsequently told Officer B "don't tase him." Officer A said he did not see Officer B's exact actions, but Officer B helped handcuff Subject 1's right hand. Other than his hands on Subject 1's wrists and left forearm, Officer A stated he did not touch Subject 1 anywhere else.

When placing Subject 1 into the police vehicle, Officer A stated he told Subject 1 that if he resisted, he would be arrested. Officer A said Subject 1 asked why he was being handcuffed and he informed Subject 1 that he was being detained for safety reasons. Officer A stated he believed Subject 1 was dangerous because of Subject 1's actions and Subject 1 not immediately stopping his vehicle. Officer A stated that Officer B ran Subject 1's name in their vehicle and he proceeded to write Subject 1 a ticket for failure to use signal when turning. Officer A stated he had an intention to write multiple tickets, however, since other civilians were coming onto the street and there was a safety issue, he only wrote one ticket.

Officer A stated he saw Officer B conversing with Subject 2 near her vehicle while escorting Subject 1 to the police vehicle, but only heard "2." While Officer B was using the computer inside his vehicle, Officer A stated that Subject 2 and a male individual walked towards Officer B. Officer A said that Subject 2 asked Officer B for his name. Officer A said Officer B responded, "I'll give you whatever you need to know when I'm done." Officer A stated that he does not know what information Officer B provided Subject 2. Officer A said he instructed Subject

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2 and the male individual to go “stand on the sidewalk because they were obstructing what we were trying to do.” Officer A stated that Subject 2 did not ask him for his information. Officer A stated that Subject 1 asked for his information. Officer A said he told Subject 1 that his information will be on the traffic citation. Officer A stated he provided Subject 1 with his traffic citation. Officer A stated that the traffic stop was approximately twenty minutes. Officer A stated that a judge dismissed Subject 1’s ticket. (Att. 32)

### **Additional Evidence**

Subject 1 provided COPA with **video recordings** recorded by his neighbor’s son. An individual is heard saying “police officer on camera slamming his head into the fucking car.” This statement and additional statements spoken in the video recordings cannot be attributed to a specific individual. The quality of the video recordings is poor and the images are unclear. (Att. 37)

The **in-car camera**, positioned upwards, did not capture the entire incident. The video captures an officer, presumably Officer A, approaching Subject 1 (the top of their heads are shown). Officer A is seen approaching Subject 1 and stopping right in front of Subject 1. Subject 1 is heard saying, “Why you putting hands on me.” Within moments, Officer A is heard stating “turn around” and Subject 1 is heard stating, “I didn’t do nothing” and repeatedly stating, “what did I do.” There is more conversation, which is inaudible. Subject 1 is seen with his back facing Officer A. Officer B is seen standing behind Subject 1 and Officer A with his back facing the camera.

The video also depicts Subject 2 conversing with officers. Officer A is heard stating, “ask him, it’s not against the law.” Subject 2 is heard saying, “he don’t want me to get his name; you said I have to ask him; and you don’t want him to answer it.” As Subject 2 is seen walking towards another officer, Officer A follows her. (Att. 11)

Sergeant A’s **initiation report** indicates that Subject 1 wished to file a complaint. Subject 1 related that Officer A conducted a traffic stop in which Officer A immediately began yelling and pressed his weapon onto Subject 1’s chest. Subject 1 stated he was handcuffed, placed into a police vehicle for no reason, and issued an unjustified traffic citation. (Att. 4)

Subject 1’s **traffic citation**, issued on July 4, 2017, notes the offense as “operator turn signal required.” Subject 1 and Officer A informed IPRA that the court dismissed Subject 1’s traffic citation. (Atts. 9, 27, 32, 38)

The officers were not equipped with **body worn cameras** because the third district did not possess them. Similarly, there are no **PODs** near the incident location. (Atts. 12, 13)

During a **canvass** of the surrounding residential area, residents did not answer their doors or they did not witness the incident. (Att. 15)

### **ANALYSIS/CONCLUSION**

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COPA recommends a finding of Not Sustained for **Allegation #1** against Officer A, that he approached Subject 1's vehicle in an aggressive manner. Subject 1 and Subject 2 claimed that Officer A approached their vehicle with his firearm unholstered and described him as angry. Subject 3 claimed that Officer A exited his vehicle yelling and began yelling before Subject 1 could exit his vehicle. In his statement, Officer A said he exited his vehicle yelling because he believed that it was a "high-level traffic stop" since Subject 1 refused to stop when the emergency lights were activated. In his statement, Officer B stated that Officer A approached Subject 1 in a calm manner. Officer A admitted to yelling when approaching Subject 1's vehicle. The reason for stopping Subject 1 was for a traffic violation. Officer A had reason to believe Subject 1 was dangerous because he believed the object in Subject 1's hand could have been a weapon. Other than yelling and a claim that Officer A's firearm was drawn, the record is unclear regarding exactly how Officer A approached Subject 1's vehicle. In this instance, there is not enough evidence in the record to prove or disprove that Officer A's approach amounted to being aggressive. Therefore, COPA recommends a finding of Not Sustained for Allegation #1.

COPA recommends a finding of Exonerated for **Allegation #2** against Officer A, that he unnecessarily displayed his weapon. General Order G03-02-02 regulates when an officer can deploy their firearm, but the order does not address when an officer can or cannot draw their firearm from their holster. Rule 38 clarifies when an officer can display their firearm stating that an officer is prohibited from unlawfully or unnecessarily using or displaying a weapon. Determining whether Officer A's display of his firearm was proper is fact dependent.

In their statements, Subject 1, Subject 2, and Subject 3 stated that Officer A approached their vehicle with his firearm drawn. In his statement, Officer A stated he believed he was involved in a high-level traffic stop because Subject 1 refused to stop when he activated his emergency lights explaining that, in his experience, the driver is attempting to hide something in their vehicle when he or she behaves in this manner. Officer A also claimed that he "did not know what was happening" and "knew it was not a normal traffic stop." Officer A further stated that Subject 1 stepped out of his vehicle with a dark object in his hand to which he believed the object "could have been a weapon." Officer A stated he "drew his gun and stood in ready position" and, subsequently, holstered his firearm once he believed the object was not a weapon.

Even though Subject 1's actions would not have likely caused death or serious physical injury to another individual, in the moment, Officer A believed that the object in Subject 1's hand could have been a weapon. It was reasonable for Officer A to unholster his firearm because he believed there was a possibility that Subject 1 possessed a weapon. Therefore, COPA recommends a finding of Exonerated for Allegation #2.

COPA recommends a finding of Not Sustained for **Allegation #3** against Officer A, that he placed his weapon on Subject 1's chest. In their statement, Subject 1 and Subject 2 claimed that Officer A placed his firearm on the left side of Subject 1's chest. Subject 2 further claimed that Officer A "poked" Subject 1's chest with the firearm. In her statement, Subject 3 stated that Officer A pointed his firearm towards Subject 1's chest, and, specified that if Officer A took an additional step towards Subject 1, his firearm would have touched Subject 1's chest. In his statement, Officer A stated that he holstered his firearm once he began to approach Subject 1. The record is unclear if Officer A holstered his firearm prior to approaching Subject 1 and whether he placed his firearm

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on Subject 1's chest. In this instance, there is not enough evidence in the record to prove or disprove this allegation. Therefore, COPA recommends a finding of Not Sustained for Allegation #3.

COPA recommends a finding of Unfounded for **Allegation #4** against Officer A, that he slammed Subject 1 onto the vehicle. In her statement, Subject 2 alleged that Officer A slammed Subject 1 onto the vehicle. In the video recording, an individual is heard saying a "police officer on camera slamming his head into the fucking car." In her statement, Subject 3 stated that Officer A pushed Subject 1 back into the door. In their statements, Officers 1 and 2 stated that Officer A only had physical contact with Subject 1's wrists and forearm. The witness accounts are inconsistent regarding whether Subject 1 was slammed onto the vehicle.

Nevertheless, in his statement, Subject 1 did not state that Officer A slammed him onto his vehicle. Likewise, Sergeant A's initiation report does not indicate that Subject 1 told Sergeant A that an officer slammed him. Although Subject 2 claimed that Officer A slammed Subject 1 onto the vehicle, based on additional facts revealed through the investigation, the allegation did not occur. Therefore, COPA recommends a finding of Unfounded for Allegation #4.

COPA recommends a finding of Exonerated for **Allegation #5** against Officer A, that he threatened to tase Subject 1 and impound his vehicle. In his statement, Subject 1 stated that Officer A threatened to tase Subject 1 and impound his vehicle if he did not "make this easy" and was uncooperative. In his statement, Officer A stated that Subject 1 began resisting by not bringing his right hand behind, turning, and getting tense. Officer A stated he told Subject 1 that if Subject 1 fought him then he would arrest Subject 1 and tow Subject 1's vehicle. While placing Subject 1 into a police vehicle, Officer A stated he told Subject 1 again that if Subject 1 resisted then he would arrest Subject 1.

After Subject 1 began to comply, Officer A told Officer B "don't tase him." It is more than likely than not that when Officer A told this to Officer B, Subject 1 misheard the statement. When Subject 1 heard the word "tase," he may have perceived it as threat. But, it was to inform Officer B that Subject 1 began to comply. When Officer A stated that he would impound Subject 1's vehicle, he meant this as verbal deterrent to persuade and warn Subject 1 to stop resisting. If he had continued to resist, the officers could have impounded Subject 1's vehicle if they arrested him. Therefore, COPA recommends a finding of Exonerated for Allegation #5.

COPA recommends a finding of Exonerated for **Allegation #6** against Officer A, that he unreasonably detained Subject 1. A seizure for a traffic violation justifies a police investigation of that violation.<sup>3</sup> A routine traffic stop is more analogous to a so-called '*Terry* stop' than to a formal arrest.<sup>4</sup> Like a *Terry* stop, the tolerable duration of police inquiries in the traffic-stop context is determined by the seizure's "mission"— to address the traffic violation that warranted the stop

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<sup>3</sup> *Rodriguez v. United States*, 135 S. Ct. 1609, 1614, 191 (2015).

<sup>4</sup> *Knowles v. Iowa*, 525 U.S. 113, 117 (1998) (quoting *Berkemer v. McCarty*, 468 U.S. 420, 439 (1984); *see also* *Arizona v. Johnson*, 555 U.S. 323, 330 (2009); *Terry v. Ohio*, 392 U.S. 1 (1968)).

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and attend to related safety concerns.<sup>5</sup> Because addressing the infraction is the purpose of the stop, it may last no longer than is necessary to effectuate that purpose.<sup>6</sup>

A seizure of a person for an investigatory stop is reasonable if, under all of the circumstances known to the officer at the time: (1) the officer had reasonable articulable suspicion that the person seized was engaged in criminal activity such as a traffic infraction, which is enough to conduct a *Terry stop*<sup>7</sup>; and (2) the length and scope of the seizure was reasonable. In order to prove the seizure in this case was unreasonable, it must be proved that the officer lacked reasonable suspicion to stop him or that the length or scope of the stop was excessive. In determining whether an officer has unreasonably prolonged an investigative detention a court is to use “a contextual, totality of circumstances analysis that includes consideration of the brevity of the stop and whether the police acted diligently during the stop.”<sup>8</sup> Furthermore, once an officer decides not to issue a traffic citation after a traffic stop, the *Terry stop* is completed and any subsequent detention of the defendant is invalid. *People v. 4lee*, 186 Ill. 2d 501 (1999).

First, Officer A stopped and seized Subject 1 for a traffic citation, specifically, for failing to use his turn indicator. Officer A also stated that Subject 1 did not obey a stop sign. Officer B corroborated Officer A. As such, at the time of the stop, Officer A had reasonable articulable suspicion that Subject 1 engaged in criminal activity when he believed Subject 1 violated traffic laws.

Second, the length and scope of Subject 1’s seizure was reasonable because Officer A did not prolong his detainment. In his statement, Officer A stated that he told Subject 1 that he was not under arrest and that he was being detained for safety reasons because he believed Subject 1 was dangerous. He indicated that Subject 1 was dangerous because of Subject 1’s actions once he was approached and for not immediately stopping his vehicle once the emergency lights were activated. Once Subject 1 was detained and placed into the police vehicle, Officer B ran Subject 1’s information on the computer. While running Subject 1’s information, Subject 2 approached Officer B to speak with him which is also when Officer A interjected in the conversation. In his statement, Officer A stated that civilians came onto the street elevating the incident into a safety issue. Officer A secured and controlled the crowd because they were yelling. Officers 2, 4, and 3 and the video recordings corroborated Officer A. After that Officer A wrote a traffic citation and issued it to Subject 1. Once Officer A issued the traffic citation, Subject 1 was subsequently unhandcuffed and released.

Subject 1 was detained for less than thirty minutes. Thirty minutes is a reasonable time to conduct the above because it was necessary under the totality of the circumstances to achieve the purpose of the stop and attend to related safety concerns. Officer A had reasonable suspicion to conduct a traffic stop. And, the length and scope of the seizure was reasonable, not excessive. As

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<sup>5</sup> *Illinois v. Caballes*, 543 U.S. 405, 407 (2005); see also *United States v. Sharpe*, 470 U.S. 675, 685 (1985); *Florida v. Royer*, 460 U.S. 491, 500 (1983) (plurality opinion) (“The scope of the detention must be carefully tailored to its underlying justification.”)

<sup>6</sup> *Caballes*, 543 U.S. at 407.

<sup>7</sup> See *People v. Hackett*, 2012 IL 111781, p. 28.

<sup>8</sup> *People v. Baldwin*, 388 Ill. App. 3d 1028, 1034 (3<sup>rd</sup> Dist. 2009).

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such, more likely than not, Subject 1 was reasonably detained. Therefore, COPA recommends a finding of Exonerated for Allegation #6.

COPA recommends a finding of Not Sustained for **Allegation #7** against Officer A, that he issued an unjustified traffic citation. Officer A issued Subject 1 a traffic citation for failure to use an operator turn signal. In his statement, Subject 1 stated that he used his turn signal on the date of the incident. Subject 1 and Officer A stated that the court dismissed Subject 1's traffic citation. While it is factual that Subject 1 received a traffic citation and the court dismissed the citation, the validity of said citation is unclear. COPA cannot give credence to the mere fact that the court dismissed the citation because the court did not hear from Subject 1 or Officer A. There is not enough evidence in the record to prove or disprove whether the traffic citation was unjustified. Therefore, COPA recommends a finding of Not Sustained for Allegation #7.

COPA recommends a finding of Exonerated for **Allegation #8** against Officer A, that he prevented his partner to identify himself when requested by a civilian. Rule 37 states "Failure of a member, whether on or off duty, to correctly identify himself by giving his name, rank and star number when so requested by other members of the Department or by a private citizen." Subject 1 and Subject 2 alleged that when Subject 2 asked Officer B for his name, Officer A intervened stating that Subject 2 could not talk to Officer B, which prevented Officer B from identifying himself. Officer A told Subject 2 that she needed to stay on the sidewalk. However, Officer A did not violate Rule 37 because he did not fail to identify himself.

In his statement, Officer A stated that Subject 2 asked Officer B for his name to which Officer B responded that he would provide it once the investigation was done. Officer A further stated that he instructed Subject 2 and a neighbor to stay on the sidewalk because they were obstructing the officers from completing their investigation. Officer B corroborates his statement. Even if one interprets the rule as a member cannot inhibit another member from identifying himself when so requested, Officer A's actions are deemed proper. His actions were proper because he told Subject 2 that she would receive the information once the investigation was complete and that they were obstructing the officers. Thus, he told them to stand on the sidewalk. Officer A did not prevent Officer B from providing his name, rather, he told them that they will receive it once the investigation is complete. Officer B provided his name to Subject 2 before leaving the scene. Additionally, Officer A told Subject 1 that his information is on the traffic citation. This is sufficient because Subject 1 possessed his information upon receiving the citation. Therefore, COPA recommends a finding of Exonerated for Allegation #8.

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Investigator Anish Shah

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Supervising Investigator Erica Sangster

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Deputy Chief Investigator Josh Hunt